

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
CRACCO, : Docket #14cv8235
 : 1:14-cv-08235-PAC
 :
Plaintiff, :
 :
- against - :
 :
THE CITY OF NEW YORK, et al., :
 : New York, New York
Defendants. : June 22, 2016
----- :

PROCEEDINGS BEFORE
THE HONORABLE PAUL A. CROTTY,
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

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Proceedings recorded by electronic sound recording;
Transcript produced by transcription service.

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None					

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
None				

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THE CLERK: Counsel in the matter of Cracco versus Mr. Cyrus Vance, can please step forward, plaintiff front table, defendant back table. This is the matter of Cracco versus Mr. Cyrus R. Vance, Jr., docket number 14cv8235, counsel for plaintiff, please state your appearance.

MR. JAMES MALONEY: Good afternoon, Your Honor, James Maloney for the plaintiff.

THE COURT: Mr. Maloney, how are you?

MR. MALONEY: Very good, Your Honor.

THE CLERK: For defendant.

MS. ELIZABETH KRASNOW: Good afternoon, Your Honor, Assistant District Attorney Elizabeth Krasnow on behalf of Cyrus Vance.

THE COURT: Ms. Krasnow, how are you?

MS. KRASNOW: Good, thank you.

THE COURT: This lawsuit is over with now, isn't it, Mr. Maloney?

MR. MALONEY: Well that's what we're waiting to see, Your Honor. I guess you're aware from that question that the legislature has amended the statute --

THE COURT: Yes.

MR. MALONEY: But the governor has not yet signed it.

THE COURT: He's got thirty days.

1
2 MR. MALONEY: Correct. And I do believe that if
3 this new statute is enacted, that would render my
4 declaratory judgment claim moot. That having been said, I'd
5 rather wait and see it done before I --

6 THE COURT: I agree with that. Do you agree with
7 Mr. Maloney's analysis, Ms. Krasnow?

8 MS. KRASNOW: If he is willing to withdraw his
9 claim because he feels that the amendment, if the amendment
10 happens and he is willing to withdraw his claim because he
11 feels it's now moot, then he's not going to get any
12 objection from my office.

13 THE COURT: Okay. So how long should we wait, we
14 should schedule another conference? Does the governor really
15 have thirty days or is --

16 MS. KRASNOW: He has, I think it's either thirty
17 or forty-five days, Your Honor, from the day the bill gets
18 on his desk.

19 THE COURT: Oh, and they manipulate the day it
20 gets on his desk.

21 MS. KRASNOW: Which I don't know where it is.

22 THE COURT: They play tricks up there in Albany.

23 MS. KRASNOW: And I don't think there's a way to
24 find out.

25 THE COURT: Yeah.

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MR. MALONEY: The other, if I may, the other parallel track, as you may be aware, is that the trial on the papers in the *Copeland* case went forward last week.

THE COURT: That's before Judge Forrest.

MS. KRASNOW: Yes, Your Honor.

MR. MALONEY: Correct.

THE COURT: Who is flicking the switchblade. And she made it deploy.

MR. MALONEY: That made *The New York Law Journal* --

THE COURT: Yeah, that's where I'm doing my legal research these days.

MR. MALONEY: Always a good source. It may well be, at least this is my speculation, that if the statute is enacted before the Judge renders and opinion in that case, the Judge may render an opinion that analyzes the applicability of the statute to those claims, which, in turn, would have some bearing on this case.

THE COURT: Right.

MR. MALONEY: My guess, an educated guess, is that if the statute is passed, my claim here will be moot.

THE COURT: Right.

MR. MALONEY: But we'll wait and see. What I'd like to do, this is the main reason we wanted to address

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this to Your Honor today, is that we were going forward with discovery, I produced my client and a witness, we were going to depose a police officer, but given --

THE COURT: I'd suggest you wait.

MR. MALONEY: Exactly.

THE COURT: You save money.

MR. MALONEY: That's what we're going to do.

THE COURT: Wait a period of time until we get certitude on what the governor is or is not going to do, and then depending upon what he does, do the appropriate thing, which will either be to resume discovery or to end the lawsuit.

MR. MALONEY: Exactly, Your Honor.

THE COURT: Okay.

MR. MALONEY: And we just wanted to get your approval on that.

THE COURT: Okay. So what I'm going to do, Mr. Maloney and Ms. Krasnow, is ask you to report to me periodically or report to me when the bill is taken up by the governor's office and what his action is on it, and then we'll see where we go from there. Do we know, Marlon, what Judge Forrest is contemplating?

THE CLERK: I do not know, Your Honor.

MS. KRASNOW: Sorry, what was that question, Your

1
2 Honor? I was the one who did the trial in front of Judge
3 Forrest.

4 THE COURT: Oh, yeah? Do you know what Judge
5 Forrest, is she contemplating waiting now --

6 MS. KRASNOW: So she has asked us to put in
7 briefing on Monday as to both sides' position as to how the
8 statute impacts those plaintiffs' claims. So we're doing
9 that on Monday and then when we were at the trial she
10 projected about a month for her decision, maybe a little bit
11 longer, five weeks.

12 THE COURT: Well, I can't practice law for Judge
13 Forrest, but she'd be wise to wait I guess, maybe see what
14 the governor is going to do with the legislative proposal.

15 MS. KRASNOW: I think that's why she's requested
16 the briefing from the parties for Monday, Your Honor.

17 THE COURT: Okay. All right, anything else, Mr.
18 Maloney?

19 MR. MALONEY: No, sir.

20 THE COURT: Ms. Krasnow?

21 MS. KRASNOW: No, Your Honor, thank you.

22 THE COURT: Thank you very much.

23 MR. MALONEY: Thank you, Your Honor.

24 THE COURT: You'll keep me posted, Mr. Maloney.

25 MR. MALONEY: Will do.

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THE COURT: Thank you.

(Whereupon the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the United States District Court, Southern District of New York, Cracco versus The City of New York, et al., Docket #14cv8235, was prepared using PC-based transcription software and is a true and accurate record of the proceedings.

Signature _____

Carole Ludwig

Date: January 4, 2017